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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,687	02/07/2001	Mark James Kline	8415	5337
27752	7590	12/10/2007	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION - WEST BLDG. WINTON HILL BUSINESS CENTER - BOX 412 6250 CENTER HILL AVENUE CINCINNATI, OH 45224				ANDERSON, CATHARINE L
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
12/10/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09778687	2/7/01	KLINE ET AL.	8415

EXAMINER

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MAILED

ART UNIT

PAPER

DEC 10 2007

3761

20071123

GROUP 3700

DATE MAILED:

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Commissioner for Patents

Attachment: Notice of References Cited (PTO-892)



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/778,687

Filing Date: February 07, 2001

Appellant(s): KLINE ET AL.

Michael P. Hayden
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 24 July 2007 appealing from the Office action mailed 19 April 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2,681,032	SHAW	6-1954
5,566,398	DEAGAN	10-1996
5,797,892	GLAUG ET AL	8-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 19, 21, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Deagan (5,566,398).

With respect to claim 19, Deagan discloses a changing aid, as shown in figure 4, comprising a mat 20 and an effect generating mechanism 24, 40 joined to the mat 20 by means 26. The effect generating mechanism 24, 40 comprises an air jet. When the effect generating mechanism 24, 40 is activated, it moves an article 12 that is worn externally on a body of a wearer, thereby transforming the article, to assist in the removal of the article 12, as shown in figures 1 and 2.

With respect to claim 21, the effect generating mechanism 24, 40 comprises the expansion of the bladder 24 which reduces the interior size of the article 12, as shown in figure 2, and therefore changes a material property of the article.

With respect to claim 23, the effect generating mechanism 24, 40 deactivates adhesive tabs 48 during the transformation.

With respect to claim 24, the change to the article is temporary.

Claims 19 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw (2,681,032).

Shaw discloses a changing aid comprising a mat 15 and an effect generating mechanism 18 joined to the mat 15, as shown in figure 3. The effect generating mechanism transforms a portion of the article by facilitating contraction of the mat 15 to allow for a connection between a first portion, signal 20, and a second portion, opening 21, as shown in figure 4. The indication of wetness of the diaper assists in the removal process of the article.

Claims 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Glaug et al. (5,797,892).

Glaug discloses a changing aid comprising a mat 62 and an effect generating mechanism 64 joined to the mat 62, as shown in figure 3, which are comprised in an article to be worn externally on the body of a wearer. The effect generating mechanism 64 transforms the article by changing the thickness and absorbency of the article, as disclosed in column 4, lines 25-29. The effect generating mechanism assists in the removal of the article by signaling to the wearer that urination has occurred, as disclosed in column 1, lines 21-35. The effect generating mechanism produces a thermal effect, as disclosed in column 8, lines 51-64.

(10) Response to Argument

In response to the Appellant's argument that Deagan does not disclose a transformation of the helmet because no change in the physical properties of the helmet

occurs, it is noted that the size of the helmet is determined by the interior volume available for a wearer's head. Since the bladder reduces the interior volume of the helmet by inflating and occupying the interior volume, the bladder reduces, or changes, the size of the helmet. Inflating the bladder transforms the helmet to a smaller size, which aids in the removal of the helmet from the wearer's head. Therefore, Deagan fulfills the limitations of the claims.

In response to the Appellant's argument that Deagan further fails to disclose the deactivation of adhesive, it is noted that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. The present claims do not require the activation or deactivation of adhesive as generally described in the present specification. During inflation of the bladder of Deagan, the adhesive tabs securing the bladder are separated, or deactivated. Therefore, Deagan fulfills the limitations of the claims.

In response to the Appellant's argument that Shaw does not disclose a connection made between the indicator 20 and the aperture 21 when the resilient member 15 moves, it is noted that the present claim does not require a physical connection be made between one portion of the article and another. When the resilient member of Shaw moves, a visual connection is made between the indicator and the aperture that was previously blocked by the frangible means. Therefore, the movement of the resilient member and frangible means of Shaw causes a connection between the indicator and the aperture.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte dismissal of the appeal* as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to

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reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

C. Lynne Anderson



A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Fred Schmidt



Conferees:

Tanya Zalukaeva

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

Angela Sykes

